

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4760 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.M.SONI and

Hon'ble MR.JUSTICE H.R.SHELAT

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GSRTC

Versus

JAYANTILAL B SHAH

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Appearance:

MR Y.S. LAKHANI, Advocate for the petitioner.

MR MUKESH R. SHAH, Advocatte for Respondent No.1

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CORAM : MR.JUSTICE S.M.SONI and

MR.JUSTICE H.R.SHELAT

Date of decision: 20/01/97

ORAL JUDGEMENT (Per: S.M. Soni, J.)

Gujarat State Road Transport Corporation by this appeal has challenged the Judgment and Award passed by the Motor Accident Claims Tribunal (Main), Vadodara, in Motor Accident Claims Petition No. 1397 of 1992 on 27th June 1996. Against the claim of Rs. 3,00,000/-, the Tribunal has awarded Rs. 2,52,400/- with 12% interest from the date of the application. This award is challenged on the following grounds,namely (1) that the Tribunal has not considered the negligence on the part of the deceased; (2) that the award is on a much higher side; and (3) that the award is for the future income of interest and the same ought not to have been awarded. In our opinion, none of the contentions appeals us.

2. So for as the first contention about the contributory negligence is concerned, there is no suggestion any where in evidence as to how the deceased was negligent. On the contrary, the finding of negligence on the part of the S.T. Corporation has been amply proved for the reason that the door suddenly got

opened and the boy fell out of the running bus. This suggests that the door was either not closed or was not locked which was the duty of the conductor of the bus. This apart, the boy ought not to have been allowed to stand there and was not even instructed not to stand there. Thus, there is no negligence on the part of the deceased and it is rightly so held by the Tribunal.

3. So for as the quantum is concerned, the evidence is there to the effect that the deceased was studying in I.T.I. College and had a good academic career. He could have at the most be a skilled labourer like a carpenter, processor, painter, truck driver etc etc. The learned Tribunal has considered that he would have got minimum Rs.3,000/- as salary and might have reached maximum Rs.4,200/-. Taking out the mean of the same, the Tribunal has assessed his income per month at Rs.3,600/-. On this basis the calculation reached in our opinion is just and proper. The Tribunal has given multiplier of sixteen. It is contended by the learned advocate for the appellant that this is on a much higher side. Learned advocate, Mr. Lakhani contended that the Tribunal has erred in not taking into consideration the age of the parents at the time of considering the multiplier. It is in evidence that father was 50 years old and the mother was 40 years old at the time of accident. This is disputed by the learned advocate for the appellant as in the evidence it is shown that the father was 59 years of age and mother was 43. Even bearing in mind this variation in age then also in our opinion in the facts and circumstances of this case, we do not intend to interfere with the multiplier awarded by the learned Tribunal.

4. So for as the challenge to the interest is concerned, we are of the opinion that once the claim is established interest is liable to be awarded. Hence the appeal is dismissed.

(S.M. Soni, J.)

(H.R. Shelat, J.)

20-1-1997.